

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

MAXIE A. MOORE,

Plaintiff,

v.

BUREAU OF PRISONS; WARDEN  
MARION FEATHERS; and DIRECTOR  
HARRY LAPPIN,

Defendants.

Case No. C10-5406RBL

ORDER

THIS MATTER comes on before the above-entitled Court upon Plaintiff's Application to Proceed *In Forma Pauperis* and Proposed Complaint. For the reasons that follow, plaintiff's application to proceed *in forma pauperis* is **GRANTED**. The Clerk is directed to file plaintiff's Proposed Complaint and to serve a copy on the Assistant United States Attorney assigned to prosecute his criminal cases.

Ordinarily, when a plaintiff is granted leave to proceed *in forma pauperis* and the lawsuit is commenced, the Court requires that the plaintiff provide certain documents to the Clerk and the United States Marshal is then directed to perform service under Rule 4 of the Federal Rules of Civil Procedure. In this case, due to this Court's and the United States Attorney's unique familiarity with the plaintiff, the Court will dispense with that requirement and merely direct the Clerk to provide a copy of plaintiff's Complaint to the Assistant United States Attorney assigned to prosecute his criminal cases.

Plaintiff is an incarcerated federal felon. His Complaint alleges that the Bureau of Prisons ("BOP") violated the Administrative Procedure Act ("APA") when it (1) notified local law enforcement

1 agencies that plaintiff was required to register as a sex offender, and (2) failed to award him one year of  
2 early release credits for completing BOP's Residential Drug and Alcohol Program ("RDAP") while  
3 apparently serving a prior sentence. He seeks a declaratory judgment and, presumably, early release on  
4 the sentence he is now serving.

5 His first claim for relief appears to be properly brought under the APA; however, his claim that  
6 the BOP improperly failed to credit his sentence for completing RDAP is a challenge governed by 28  
7 U.S.C. § 2241. As to the APA claim, the government shall file an answer or responsive motion pursuant  
8 to Fed. R. Civ. P. 12 within sixty (60) days of entry of this Order. As to the 28 U.S.C. § 2241 claim and  
9 also within sixty (60) days of entry of this Order, the government shall file an answer including whether  
10 or not this claim is a second or successive petition and whether it is otherwise procedurally barred.

11 **IT IS SO ORDERED.**

12 The Clerk shall send uncertified copies of this order to all counsel of record, and to any party  
13 appearing pro se.

14 Dated this 12<sup>th</sup> day of July, 2010.

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17 RONALD B. LEIGHTON  
UNITED STATES DISTRICT JUDGE  
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